

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

03-0914

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on May 22, 2009Signature /Elizabeth Schumacher/Typed or printed Elizabeth Schumacher  
name

Application Number

10/664,636

Filed

September 19, 2003

First Named Inventor

Rebecca A. Kocot

Art Unit

2193

Examiner

Insun Kang

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

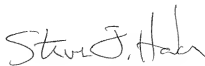
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attorney or agent of record.

Registration number 58076☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_



Signature

Steven J. Hanke

Typed or printed name

972-480-8800

Telephone number

May 22, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below\*.

☒

\*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Rebecca A. Kocot

Serial No.: 10/664,636

Filed: September 19, 2003

Title: USER INTERFACE SOFTWARE DEVELOPMENT TOOL AND  
METHOD FOR ENHANCING THE SEQUENCING OF INSTRUCTIONS  
WITHIN A SUPERSCALAR MICROPROCESSOR PIPELINE BY  
DISPLAYING AND MANIPULATING INSTRUCTIONS IN THE  
PIPELINE

Grp./A.U.: 2193

Examiner: Insun Kang

Confirmation No.: 5055

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being electronically filed  
with United States Patent and trademark Office on:  
May 22, 2009 (Date)

Elizabeth Schumacher

(Printed or typed name of person signing the certificate)

/Elizabeth Schumacher/

(Signature of the person signing the certificate)

Sir:

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

The Appellant has carefully considered this application in connection with the final Examiner's Action mailed January 22, 2009, and the Advisory Action mailed April 6, 2009, and respectfully requests a pre-appeal brief review of this application in view of the following remarks.

### **REMARKS/ARGUMENTS**

The Appellant originally submitted Claims 1-20 in the application. In a previous response, Claim 2 was canceled without prejudice or disclaimer. Accordingly, Claims 1 and 3-20 are currently pending in the application.

#### **I. Rejection of Claims 1 and 4-7 under 35 U.S.C. §103**

The Examiner has rejected Claims 1 and 4-7 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0110476 by Aihara (hereinafter "Aihara") in view of an article entitled, "Visualizing Application Behavior on Superscalar Processors," IEEE, 10/1999 by Stolte, *et al.* (hereinafter "Stolte"). The Appellant respectfully disagrees since the cited portions of the combination of Aihara with Stolte, as applied by the Examiner, do not teach or suggest a graphical user interface (GUI) for receiving user input to select one instruction address as recited in independent Claim 1.

As the Examiner points out, the invention as presently claimed and both Aihara and Stolte are directed to visualization of a DSP/superscalar pipeline information. (*See* second paragraph of comments on page 2 of the Advisory Action of April 6, 2009.) However, the Applicant believes that neither Aihara nor Stolte teach that a user can select a single instruction from which to visualize pipeline information. The Examiner recognizes that Aihara does not teach or suggest that a user can select a single instruction and cites the first paragraph in the left column on page 5 of Stolte to cure this deficiency. (*See* Final Rejection of January 22, 2009, page 2, and the last paragraph on page 2 of the Advisory Action of April 6, 2009.) Stolte teaches, in Fig. 2, a pipeline view is generated that

shows all instructions in a pipeline. As the Examiner points out, Stolte teaches that a user controls a pipeline animation using controls similar to those on a VCR enabling a user to single-step through the pipeline. However, Stolte does not teach or suggest that the user can select a single instruction out of all the instructions in the view. On the contrary, the user must animate and step through each instruction, one instruction at a time, to arrive at a selected instruction. This could take several steps to arrive at the single instruction that the user wants to view. The invention as presently claimed teaches that the user can go directly to the instruction desired in one step by highlighting the instruction.

As a result, the cited portions of the cited combination of Aihara and Stolte, as applied by the Examiner does render independent Claim 1 and Claims that depend thereon unpatentable. Accordingly, the Appellant respectfully request the Review Panel to remove the §103(a) rejection of Claims 1 and 4-7 and allow issuance thereof.

## **II. Rejection of Claims 8-10 and 12-15 under 35 U.S.C. §103**

The Examiner has rejected Claims 8-10 and 12-15 under 35 U.S.C. §103(a) as being unpatentable over Aihara in view of U.S. Patent No. 5,913,052 to Beatty, *et al.* (hereinafter "Beatty"), and further in view Stolte. As established above, the combination of Aihara and Stolte does not provide a *prima facie* case of obviousness for independent Claim 1. Analogously, the cited combination of Aihara and Stolte does not provide a *prima facie* case of obviousness for independent Claim 8 since Claim 8 also includes the limitations of a GUI that allows a user to select a particular instruction address. As such, the cited combination of Aihara, Beatty, and Stolte does not provide a

*prima facie* case of obviousness for independent Claim 8 and Claims that depend thereon. Accordingly, the Appellant respectfully requests the Review Panel to remove the §103(a) rejection of Claims 8-10 and 12-15 and allow issuance thereof.

### **III. Rejection of Claims 16-20 under 35 U.S.C. §103**

The Examiner has rejected Claims 16-20 under 35 U.S.C. §103(a) as being unpatentable over Aihara in view of Beatty. As established above, the cited combination of Aihara and Beatty does not provide a *prima facie* case of obviousness for independent Claim 8. Analogously, for the same reasons, the cited combination does not provide a *prima facie* case of obviousness for independent Claim 16 and Claims that depend thereon. Accordingly, the Appellant respectfully requests the Review Panel to remove the §103 rejection of Claims 16-20 and allow issuance thereof.

### **IV. Rejection of Claims 3 and 11 under 35 U.S.C. §103**

The Examiner has rejected Claims 3 and 11 under 35 U.S.C. §103(a) as being unpatentable over Aihara in view of Stolte, and further in view of: U.S. Patent Application Publication No. 2002/0130871 by Hill, *et al.* (hereinafter "Hill") for Claim 3; and Hill and Beatty for Claim 11. As established above, the cited combination of Aihara and Stolte does not provide a *prima facie* case of obviousness for independent Claims 1 and 8. Neither Hill nor Beatty has been cited to cure the above-noted deficiencies of the cited combination of Aihara and Stolte but to teach the subject matter of the above mentioned dependent Claims. As such, the cited combination of Aihara and Stolte and either Hill or Hill and Beatty does not provide a *prima facie* case of obviousness of independent

Claims 1 and 8 and Claims that depend thereon. Accordingly, the Appellant respectfully requests the Review Panel to remove the §103(a) rejection of Claims 3 and 11 and allow issuance thereof.

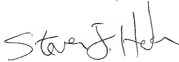
## **VI. Conclusion**

In view of the foregoing remarks, the Appellant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1 and 3-20.

The Appellant requests the Reviewers to telephone the undersigned agent of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

**HITT GAINES, PC**

A handwritten signature in black ink, appearing to read "Steven J. Hanke". The signature is fluid and cursive, with the first name "Steven" and last name "Hanke" clearly distinguishable.

Steven J. Hanke  
Registration No. 58,076

Dated: May 22, 2009

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